

ARTICLE V

FINANCIAL PROVISIONS

5.1. Each Party shall contribute its equitable share of the full costs of the Project, including overhead costs, administrative costs, and costs of claims. The assignment of work represents an equitable sharing of work to be performed under the Project as described in Article III (Scope of Work), and each Party shall receive an equitable share of the results of the Project. In accordance with the provisions of this Agreement, each Party shall receive the full set of the results of the Project.

5.2. The full costs of the Project, as identified in this Article, shall be shared approximately equally (50% DOD:50% MOD) by the Parties.

5.3. There shall be no common fund for this Project. Each Party shall bear the full costs it incurs for performing, managing, and administering its activities under this Agreement and all such costs shall be included as part of each Party's contributions to the Project. These costs include financial and non-financial contributions as well as any Contract costs. The value of the MOD's contribution to phase 2 of the Project has been mutually agreed to by the Parties. The Parties shall perform, or have performed, the work specified in Article III (Scope of Work) and shall fulfill all responsibilities under this Agreement within the ceiling amounts specified below, which represent the maximum contributions of the Parties and shall not be exceeded without the written agreement of the Parties:

PHASE 1

PARTY	Contribution in U.S. Dollars (USD)/EURO
DOD	2,000,000 USD
MOD	2,100,000 EURO

The phase 2 contributions will be made only after the SC has made a written decision to enter into phase 2 of the Project, as set forth in Articles III (Scope of Work) and IV (Management (Organization and Responsibility)).

PHASE 2

PARTY	Contribution in U.S. Dollars (USD) /EURO
DOD	2,800,000 USD
MOD	3,065,000 EURO

5.4. Any costs for work outside the scope of this Agreement shall be borne entirely by the Party incurring such costs and are not included in that Party's contributions described in paragraph 5.3..

5.5. If a Party is not able to meet its total contribution, in whole or in part, as detailed in paragraph 5.3, it shall promptly notify the SC. If a Party notifies the SC that it is terminating or reducing its funding for this Project, both Parties shall immediately consult with a view towards continuation on a changed or reduced basis. If this is not acceptable to both Parties then the provisions of the Article XVIII (Amendment, Withdrawal and Termination) shall apply.

ARTICLE VI

CONTRACTING PROVISIONS

6.1. If either Party determines that Contracting is necessary to fulfill that Party's obligations under Article III (Scope of Work) of this Agreement, that Party shall contract in accordance with its respective national laws, regulations and procedures.

6.2. When one Party individually contracts to perform a task under this Agreement, it shall be solely responsible for its own Contracting and the other Party shall not be subject to any liability arising from such Contracts.

6.3. For all Contracting activities performed by either Party, the PMs shall, upon request, be provided a copy of all statements of work prior to the development of solicitations.

6.4. Each Party's Contracting Agency shall negotiate to obtain the rights to use and disclose Project Information required by Article VIII (Disclosure and Use of Project Information). Each Party's Contracting Agency shall insert into its prospective Contracts (and require its subcontractors to insert in subcontracts) suitable provisions to satisfy the requirements of this Agreement, including Article VIII (Disclosure and Use of Project Information), Article IX (Controlled Unclassified Information), Article XI (Security) and Article XII (Third Party Sales and Transfers). During the Contracting process, each Party's Contracting Officer shall advise prospective Contractors of their obligation to immediately notify the Contracting Agency, before Contract award, if they are subject to any license or agreement that shall restrict that Party's freedom to disclose information or permit its use. The Contracting Officer shall also advise prospective Contractors to employ their best efforts not to enter into any new agreement or arrangement that will result in restrictions.

6.5. In the event a Party's Contracting Agency is unable to secure adequate rights to use and disclose Project Information as required by Article VIII (Disclosure and Use of Project Information), or is notified by Contractors or potential Contractors of any restrictions on the disclosure and use of information, that Party's PM shall notify the other Party's PM of the restriction(s).

6.6. Each Party's PM shall promptly advise the other Party's PM of any cost growth, schedule delay, or performance problems of any Contractor for which its Contracting Agency is responsible.

ARTICLE VII

PROJECT EQUIPMENT

7.1. Each Party may provide Project Equipment identified as being necessary for executing the Agreement to the other Party. Project Equipment shall remain the property of the providing Party. A list of all Project Equipment provided by one Party to another Party shall be developed and maintained by the PM, and approved by the SC in accordance with Article IV (Management) prior to such transfers.

7.2. The receiving Party shall maintain any such Project Equipment in good order, repair, and operable condition. Unless the providing Party has authorized the Project Equipment to be expended or otherwise consumed without reimbursement to the providing Party, the receiving Party shall return the Project Equipment to the providing Party in as good condition as received, normal wear and tear excepted, or return the Project Equipment and pay the cost to restore it. If the Project Equipment is damaged beyond economical repair, the receiving Party shall return the Project Equipment to the providing Party (unless otherwise specified in writing by the providing Party) and pay the replacement value, which shall be computed pursuant to the providing Party's national laws, regulations, and policies. If the Project Equipment is lost while in the custody of the receiving Party, the receiving Party shall issue a certificate of loss to the providing Party and pay the replacement value, which will be computed pursuant to the providing Party's national laws, regulations, and policies.

7.3. The providing Party shall deliver Project Equipment to the receiving Party at a mutually agreed location. Possession of the Project Equipment shall pass from the providing Party to the receiving Party at the time of receipt of the Project Equipment. Any further transportation is the responsibility of the receiving Party.

7.4. All Project Equipment that is transferred shall be used by the receiving Party only for the purposes of carrying out this Agreement, unless otherwise consented to in writing by the providing Party. In addition, in accordance with Article XII (Third Party Sales and Transfers) Project Equipment shall not be re-transferred to a Third Party without the prior written consent of the providing Party.

7.5. Project Equipment transferred to one Party under this Agreement shall be returned to the providing Party prior to the termination or expiration of this Agreement.

ARTICLE VIII

DISCLOSURE AND USE OF PROJECT INFORMATION

8.1. General

Both Parties recognize that successful collaboration depends on full and prompt exchange of information necessary for carrying out this Project. The Parties intend to acquire sufficient Project Information and rights to use such information to enable the conduct of the 6DOF RANS Project. The nature and amount of Project Information to be acquired shall be consistent with the objectives stated in Article II (Objectives), Article III (Scope of Work), and Article VI (Contracting Provisions).

8.2. Government Project Foreground Information

8.2.1. Disclosure: Project Foreground Information generated by a Party's military or civilian employees shall be disclosed without charge to both Parties.

8.2.2. Use: Each Party may use all Government Project Foreground Information without charge for Defense Purposes. The Party generating Government Project Foreground Information shall also retain its rights of use thereto. Any sale or other transfer to a Third Party, shall be subject to the provisions of Article XII (Third Party Sales and Transfers) of this Agreement.

8.3. Government Project Background Information

8.3.1. Disclosure: Each Party, upon request, shall disclose to the other Party without charge any relevant Government Project Background Information generated by its military or civilian employees, provided that:

8.3.1.1. such Project Background Information is necessary to or useful in the Project, with the Party in possession of the information determining whether it is "necessary to" or "useful in" the Project;

8.3.1.2. such Project Background Information may be made available without incurring liability to holders of proprietary rights; and

8.3.1.3. disclosure is consistent with national disclosure policies and regulations of the furnishing Party.

8.3.2. Use: Government Project Background Information disclosed by one Party to the other may be used without charge by the other Party for Project Purposes only; however, the furnishing Party shall retain all its rights with respect to such Project Background Information.

8.4. Contractor Project Foreground Information

8.4.1. Disclosure: Project Foreground Information generated and delivered by Contractors, shall be disclosed without charge to both Parties.

8.4.2. Use: Each Party may use without charge for its Defense Purposes all Contractor Project Foreground Information generated and delivered by Contractors of the other Party. The Party whose Contractors generate and deliver Contractor Project Foreground Information shall also retain rights of use thereto in accordance with the applicable Contract(s). Any sale or other transfer to a Third Party of Contractor Project Foreground Information, shall be subject to the provisions of Article XII (Third Party Sales and Transfers) of this Agreement.

8.5. Contractor Project Background Information

8.5.1. Disclosure: Any Project Background Information, (including information subject to proprietary rights) generated and delivered by Contractors shall be made available without charge to the other Party provided the following conditions are met:

8.5.1.1. such Project Background Information is necessary to or useful in the Project, with the Party in possession of the information

determining whether it is "necessary to" or "useful in" the Project;

8.5.1.2. such Project Background Information may be made available without incurring liability to holders of proprietary rights; and

8.5.1.3. disclosure is consistent with national disclosure policies and regulations of the furnishing Party.

8.5.2. Use: Project Background Information furnished by one Party's Contractors and disclosed to the other Party may be used without charge by the other Party for Project Purposes only, and may be subject to further restrictions by holders of proprietary rights; however, the furnishing Party shall retain all its rights with respect to such Project Background Information.

8.6. Alternative Uses of Project Information

8.6.1. Any Project Background Information provided by one Party shall be used by the other Party only for the purposes set forth in this Agreement, unless otherwise consented to in writing by the providing Party.

8.6.2. The prior written consent of each Party shall be required for the use of Project Foreground Information for purposes other than those provided for in this Agreement.

8.7. Proprietary Project Information

8.7.1. All Project Information subject to proprietary interests shall be identified and marked, and it shall be handled as Controlled Unclassified Information.

8.7.2. The provisions of the NATO Agreement on the Communication of Technical Information for Defence Purposes, done at Brussels on 19 October 1970, and the Implementing Procedures for the NATO Agreement on the Communication of Technical Information for Defence Purposes, approved by the North Atlantic Council on 1 January 1971, shall

apply to proprietary Project Information related to this Agreement.

8.8. Patents

- 8.8.1. Where a Party owns title to a Project Invention, or has the right to receive title to a Project Invention, that Party shall consult with the other Party regarding the filing of a Patent application for such Project Invention. The Party which has or receives title to such Project Invention shall, in other countries, file, cause to be filed, or provide the other Party with the opportunity to file on behalf of the Party holding title, or its Contractors, as appropriate, Patent applications covering that Project Invention. If a Party having filed or caused to be filed a Patent application decides to stop prosecution of the application, that Party shall notify the other Party of that decision and permit the other Party to continue the prosecution.
- 8.8.2. The other Party shall be furnished with copies of Patent applications filed and Patents granted with regard to Project Inventions.
- 8.8.3. The other Party shall acquire a non-exclusive, irrevocable, royalty-free license to practice or have practiced, by or on behalf of the Party, throughout the world for Defense Purposes, any Project Invention.
- 8.8.4. Patent applications to be filed under this Agreement which contain Classified Information, shall be protected and safeguarded in accordance with the requirements contained in the NATO Agreement for the Mutual Safeguarding of Secrecy of Inventions Relating to Defense and for Which Applications for Patents Have Been Made, done in Paris on 21 September 1960, and its Implementing Procedures.
- 8.8.5. Each Party shall notify the other Party of any Patent infringement claims made in its territory arising in the course of work performed under the Project. Insofar as possible, the other Party

shall provide information available to it that may assist in defending the claim. Each Party shall be responsible for handling all Patent infringement claims made in its territory, and shall consult with the other Party during the handling, and prior to any settlement, of such claims. The Parties shall share the costs of resolving Patent infringement claims in the same percentage as they share the full Financial Costs and Non-financial Costs of the Project or as they otherwise mutually agree. The Parties shall, in accordance with their national laws and practices, give their authorization and consent for all use and manufacture in the course of work performed under the Project of any invention covered by a Patent issued by their respective countries.

ARTICLE IX

CONTROLLED UNCLASSIFIED INFORMATION

9.1. Except as otherwise provided in this Agreement or as authorized in writing by the originating Party, Controlled Unclassified Information provided or generated pursuant to this Agreement shall be controlled as follows:

9.1.1. Such information shall be used only for the purposes authorized for use of Project Information as specified in Article VIII (Disclosure and Use of Project Information).

9.1.2. Access to such information shall be limited to personnel whose access is necessary for the permitted use under subparagraph 9.1.1, and shall be subject to the provisions of Article XII (Third Party Sales and Transfers).

9.1.3. Each Party shall take all lawful steps, which may include national classification, available to it to keep such information free from further disclosure (including requests under any legislative provisions), except as provided in subparagraph 9.1.2, unless the originating Party consents to such disclosure. In the event of unauthorized disclosure, or if it becomes probable that the information may have to be further disclosed under any legislative provision, immediate notification shall be given to the originating Party.

9.2. To assist in providing the appropriate controls, the originating Party shall ensure that Controlled Unclassified Information is appropriately marked. The Parties shall decide, in advance and in writing, on the markings to be placed on the Controlled Unclassified Information. The appropriate markings shall be defined in the Project Security Instruction.

9.3. Controlled Unclassified Information provided or generated pursuant to this Agreement shall be handled in a manner that ensures control as provided for in paragraph 9.1.

9.4. Prior to authorizing the release of Controlled Unclassified Information to Contractors, the Parties shall

ensure the Contractors are legally bound to control such information in accordance with the provisions of this Article.